

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Bruce J. Belton

v.

Criminal No. 04-cr-192-JD

United States of America

O R D E R

Bruce J. Belton was convicted on charges of unlawful possession of a firearm and possession with intent to distribute methamphetamine. Judgment was entered on May 21, 2007, and the mandates of the First Circuit Court of Appeals were entered in May of 2007. Belton, proceeding pro se, has written a letter to the court, in his criminal case, representing that the Supreme Court denied his appeal on October 6, 2008, and asking for an enlargement of time, for ninety days, to file a petition for relief under 28 U.S.C. § 2255. In support of the requested enlargement of time, Belton represents that he lacks access or has limited access to the prison law library and relies on assistance from other inmates because of his poor health.

Section 2255(f) provides a one-year period of limitation for a motion for relief under § 2255. The limitation period begins on the latest of four specified times. Although Belton's letter suggests that he may be attempting to fall within the limitation period described in § 2255(f)(2), he has not provided evidentiary

support for his allegations that the prison is failing to provide him with access to the court, through inadequate access to legal materials. In addition, a § 2255 proceeding is a civil action that is separate from the underlying criminal case.

Conclusion

Belton's request for an enlargement of time is denied without prejudice to him to file a motion for relief under § 2255 and to seek, with proper evidentiary support, a limitation period provided under § 2255(f).

SO ORDERED.



Joseph A. DiClerico, Jr.
United States District Judge

September 16, 2009

cc: Paul J. Garrity, Esquire
Robert Kinsella, Esquire
Bruce J. Belton, pro se